

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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ROBERT EUGENE BANKS,

Case No. 14-CV-4736 (MJD/FLN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

ROCHESTER PUBLIC SCHOOLS  
DISTRICT #535,

Defendant.

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Plaintiff Robert Eugene Banks filed this action alleging that the named defendant discriminated against him on the basis of his race. *See* ECF No. 1. Banks did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated November 14, 2014, this Court found that Banks did not qualify financially for IFP status and therefore denied Banks’s IFP application. *See* ECF No. 3. Banks was ordered to pay the required \$400.00 filing fee within 20 days of the date of that order, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b). That deadline has now passed by several months, and Banks has not yet paid the filing fee for this matter. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS  
HEREBY RECOMMENDED THAT this action be DISMISSED WITHOUT PREJUDICE  
under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: April 23, 2015

s/Franklin L. Noel  
Franklin L. Noel  
United States Magistrate Judge

**NOTICE**

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **May 8, 2015**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.